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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

4

DANIEL RAYFEL WILLIAMS,

5

Plaintiff,

No. C 12-0272 PJH (PR)

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v.

7 J. DOE, Secretary of Corrections,
8 and J. DOE, Secretary of Mental
9 Health (California State),

10 Defendant.

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12 _____ /
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14 This is a pro se civil rights complaint under 42 U.S.C. § 1983 filed by a patient of
15 Atascadero State Hospital.

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DISCUSSION

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A. Standard of Review

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Federal courts must engage in a preliminary screening of cases in which prisoners
19 seek redress from a governmental entity or officer or employee of a governmental entity.
20 28 U.S.C. § 1915A(a). In its review the court must identify any cognizable claims, and
21 dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may
22 be granted, or seek monetary relief from a defendant who is immune from such relief. *Id.*
23 at 1915A(b)(1),(2). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica*
24 *Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

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Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of
26 the claim showing that the pleader is entitled to relief." "Specific facts are not necessary;
27 the statement need only ""give the defendant fair notice of what the . . . claim is and the
28 grounds upon which it rests.""" *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citations

1 omitted). Although in order to state a claim a complaint "does not need detailed factual
2 allegations, . . . a plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief'
3 requires more than labels and conclusions, and a formulaic recitation of the elements of a
4 cause of action will not do. . . . Factual allegations must be enough to raise a right to relief
5 above the speculative level." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)
6 (citations omitted). A complaint must proffer "enough facts to state a claim to relief that is
7 plausible on its face." *Id.* at 570. The United States Supreme Court has recently explained
8 the "plausible on its face" standard of *Twombly*: "While legal conclusions can provide the
9 framework of a complaint, they must be supported by factual allegations. When there are
10 well-pleaded factual allegations, a court should assume their veracity and then determine
11 whether they plausibly give rise to an entitlement to relief." *Ashcroft v. Iqbal*, 556 U.S. 662,
12 679 (2009).

13 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential
14 elements: (1) that a right secured by the Constitution or laws of the United States was
15 violated, and (2) that the alleged deprivation was committed by a person acting under the
16 color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

17 **B. Legal Claims**

18 Plaintiff contends that his plea agreement with the parole board was breached when
19 instead of being released on parole he was transferred to a state mental hospital. The
20 relief he seeks is "an order releasing me to the streets (San Francisco, CA.) to finish my
21 term of parole there."

22 Habeas is the "exclusive remedy" for the prisoner who seeks "immediate or
23 speedier release" from confinement. *Skinner v. Switzer*, 131 S.Ct. 1289, 1293 (2011)
24 (quoting *Wilkinson v. Dotson*, 544 U.S. 74, 82 (2005)); see *Calderon v. Ashmus*, 523 U.S.
25 740, 747 (1998); *Edwards v. Balisok*, 520 U.S. 641, 648 (1997); *Preiser v. Rodriguez*, 411
26 U.S. 475, 500 (1973). Because plaintiff seeks only release from his confinement, he must
27 bring his claim in a habeas case.

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1 A civil rights complaint seeking habeas relief should be dismissed without prejudice
2 to bringing it as a petition for writ of habeas corpus. See *Trimble v. City of Santa Rosa*, 49
3 F.3d 583, 586 (9th Cir. 1995). That will be done here.

4 **CONCLUSION**

5 Leave to proceed in forma pauperis (docket # 7) is **GRANTED**. For the reasons set
6 out above, this action is **DISMISSED** without prejudice. The clerk shall close the file.

7 **IT IS SO ORDERED.**

8 Dated: October 25, 2012.

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PHYLLIS J. HAMILTON
United States District Judge